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BEFORE THE
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY d/b/a)
AMEREN ILLINOIS)
)
Review and Approval of Energy) Docket No.
Savings pursuant to Section 8-103) 14-0594
and Section 8-104 of the Public)
Utilities Act for Program Year 4.)

Wednesday, February 17, 2016

Springfield, Illinois, and by
videoconference with Chicago, Illinois

Met, pursuant to notice, at 9:30 A.M.

BEFORE:

Stephen Yoder, Administrative Law Judge

MIDWEST LITIGATION SERVICES, by
Robin A. Enstrom, RPR, CSR
CSR No. 084-002046

1 APPEARANCES:

2 Mr. Mark DeMonte
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6 (Appearing on behalf of Ameren
7 Illinois Company.)

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20 -and-

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26 (Appearing on behalf of Staff of
27 the Illinois Commerce Commission.)

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39 (Appearing on behalf of the
40 the Illinois Attorney General.)

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PROCEEDINGS

JUDGE YODER: By the authority vested in me by the Illinois Commerce Commission, I will now call Dockets 14-0594 and 14-0594 [sic]. These are both dockets filed by Ameren Illinois Company seeking review and approval of energy savings pursuant to Section 8-103 and 8-104 of the Public Utilities Act. Docket 14-0594, which is for an evidentiary hearing today, involves Program Year 4. Docket 14-0595 involves Program Year 5. These dockets are being called together merely for convenience purposes, and they are not consolidated.

Can I have the appearances for the record, please.

MR. DEMONTE: Good morning, Your Honor.

This is Mark DeMonte, D-e-M-o-n-t-e. I'm with the law firm of Jones Day, appearing on behalf of Ameren Illinois Company.

MS. WHATLEY: Good morning, Your Honor.

Kristol Whatley, W-h-a-t-l-e-y, appearing on behalf of Ameren Illinois.

1 MS. HUFNAGEL: Good morning, Your
2 Honor.

3 On behalf of the Illinois Department
4 of Commerce and Economic Opportunity, Samantha L.
5 Hufnagel, 500 East Monroe Street, Springfield,
6 Illinois 62701.

7 MR. OLIVERO: And appearing on behalf
8 of the Staff witnesses of the Illinois Commerce
9 Commission, James Olivero and Kelly Turner. My
10 address is 527 East Capitol Avenue, Springfield,
11 Illinois 62701, and Ms. Turner's is 160 North
12 LaSalle Street, Suite C-800, Chicago, Illinois
13 60601.

14 JUDGE YODER: Thank you. Is there
15 anyone else here in Springfield wishing to enter
16 their appearance in this docket?

17 (No response.)

18 JUDGE YODER: Let the record reflect
19 no response.

20 Is there anyone at the hearing room
21 in Chicago who wishes to enter an appearance in
22 this docket?

23 MR. JOLLY: Yes, Your Honor.

24 Ronald D. Jolly, J-o-l-l-y, on behalf

1 of the Office of the Illinois Attorney General.
2 My office address is 100 West Randolph, 11th
3 Floor, Chicago, Illinois 60601. Thank you.

4 JUDGE YODER: All right. Anyone else
5 in Chicago?

6 (No response.)

7 JUDGE YODER: Let the record reflect
8 no response.

9 As indicated previously, we're here
10 for an evidentiary hearing on Docket 14-0594.

11 My understanding is the only party
12 for which there is cross-examination today is Ms.
13 Morris, a Staff witness.

14 Do you wish to call Ms. Morris,
15 Mr. Olivero? Are you going to handle it or --

16 MR. OLIVERO: No. Actually, Ms.
17 Turner is.

18 JUDGE YODER: All right, then.

19 MS. TURNER: Sorry. Jim, I couldn't
20 hear what you said.

21 But at this time Staff would call Ms.
22 Morris.

23 JUDGE YODER: All right. Ms. Morris,
24 go ahead and stand and raise your right hand. I

1 understand your microphone is on.

2 (Ms. Morris was duly sworn.)

3 JUDGE YODER: Go ahead, Ms. Turner.

4 MS. TURNER: Thank you, Your Honor

5 JENNIFER MORRIS,

6 of lawful age, having been produced, sworn, and

7 examined on behalf of the Illinois Commerce

8 Commission, testified as follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MS. TURNER:

11 Q. Good morning, Ms. Morris.

12 Can you please state your full name

13 and spell your last name for the record.

14 A. Jennifer Morris, M-o-r-r-i-s.

15 Q. And, Ms. Morris, by whom are you

16 employed?

17 A. The Illinois Commerce Commission.

18 Q. What is your position with the

19 Illinois Commerce Commission?

20 A. Economic analyst.

21 Q. Ms. Morris, have you prepared written

22 testimony for the purposes of this proceeding?

23 A. Yes.

24 Q. Do you have in front of you a

1 document which has been marked for identification
2 as ICC Staff Exhibit 1.0C entitled Corrected
3 Direct Testimony of Jennifer H. Morris, which
4 consists of a cover page, a table of contents, 31
5 pages of narrative testimony?

6 A. Yes.

7 Q. In addition, do you have before you
8 documents which have been marked for
9 identification as ICC Staff Exhibit 1.1C, 1.2,
10 1.3, and 1.4?

11 A. Yes.

12 Q. Are these true and correct copies of
13 the corrected direct testimony and accompanying
14 exhibits that you prepared for this proceeding?

15 A. Yes.

16 Q. Do you also have before you a
17 document which has been marked for identification
18 as ICC Staff Exhibit 3.0 entitled Rebuttal
19 Testimony of Jennifer H. Morris, which consists
20 of a cover page, a table of contents, 28 -- and
21 28 pages of narrative testimony?

22 A. Yes.

23 Q. In addition, do you have before you a
24 document which has been marked for identification

1 as ICC Staff Exhibit 3.1?

2 A. Yes.

3 Q. Are these true and correct copies of
4 the rebuttal testimony and exhibits that you have
5 prepared for this proceeding?

6 A. Yes.

7 Q. Ms. Morris, do you have any
8 corrections to make to your prepared direct or
9 rebuttal testimony?

10 A. No.

11 Q. Is the information contained in ICC
12 Staff Exhibits 1.0C, 1.1C, 1.2, 1.3, 1.4, 3.0,
13 and 3.1 true and correct to the best of your
14 knowledge?

15 A. Yes.

16 Q. Ms. Morris, if you were asked the
17 same questions today, would the answers contained
18 in your prepared testimony and exhibits be the
19 same?

20 A. Yes.

21 MS. TURNER: Your Honor, at this time
22 and subject to cross-examination, I would ask for
23 admission into evidence of the prepared corrected
24 direct testimony marked as ICC Staff Exhibit

1 1.0C, including Exhibits 1.1C, 1.2, 1.3, 1.4, and
2 Ms. Morris' prepared rebuttal testimony marked as
3 ICC Staff Exhibit 3.0, including Exhibit 3.1.

4 And I note for the record that these
5 are the same documents that were originally filed
6 via the Commission's e-Docket system on May 14,
7 2015, May 19, 2015, and November 30, 2015.

8 JUDGE YODER: All right. Thank you.

9 We'll address admissibility following
10 cross.

11 I understand Ameren is the only party
12 that has cross reserved for --

13 MR. DEMONTE: Yes, Your Honor.

14 May I just clarify one question?

15 I didn't hear. Ms. Turner moved into
16 evidence Staff Exhibit 1.1C; correct?

17 JUDGE YODER: I think the microphone
18 cut out, but I believe you did; is that correct?

19 MS. TURNER: Yes. 1.1C was among the
20 exhibits.

21 MR. DEMONTE: Thank you very much,
22 Judge.

23 CROSS-EXAMINATION

24 QUESTIONS BY MR. DEMONTE:

1 Q. Good morning, Ms. Morris. How are
2 you?

3 A. Pretty good. How are you?

4 Q. Doing well.

5 As you know, my name is Mark DeMonte.
6 I represent Ameren Illinois in this proceeding.

7 And first I'm going to apologize
8 because I may refer to you as Ms. Hinman
9 periodically throughout this but understand I
10 know --

11 A. I'm used to it.

12 Q. -- you're Ms. Morris and Ms. Hinman
13 in some respect. So thank you for your
14 understanding in that regard.

15 Ms. Morris, you've reviewed Staff
16 Exhibit 4.0, which is the testimony of Dr. James
17 Zolnierrek; correct?

18 A. Yes. That represents Staff's
19 position on the gas savings goals.

20 Q. Okay. And to the extent there are
21 any inconsistencies between your testimony and
22 Dr. Zolnierrek's testimony with respect to an
23 issue, you would agree that Dr. Zolnierrek's
24 testimony reflects Staff's current position on

1 that issue; right?

2 A. Yes.

3 Q. Thank you.

4 Ms. Morris, for the purposes of my

5 questions, the time period between June 1, 2011,

6 and May 31, 2012 will be referred to as PY 4.

7 Okay?

8 And that's just --

9 A. Okay.

10 Q. -- capital P, capital Y, 4.

11 You agree that the purpose of this

12 docket is for the Commission to review and

13 approve the net energy savings achieved by Ameren

14 Illinois in its service territory for PY 4;

15 correct?

16 A. That's one of the purposes, yes.

17 Q. And the achieved savings --

18 MS. TURNER: Excuse me. I'm sorry.

19 It's very hard to hear the witness in Chicago.

20 A. Is this better?

21 MS. TURNER: Yes. Thank you.

22 MR. DEMONTE: Ms. Turner, can you

23 hear me okay?

24 MS. TURNER: Yes, I can. Thank you.

1 Q. (By Mr. DeMonte) I'm going to go
2 ahead and restate the question, Ms. Morris.

3 And the achieved savings for PY 4 has
4 been evaluated, measured, and verified by an
5 independent evaluator; correct?

6 A. The evaluator wasn't able to perform
7 the verification activities for all of the
8 programs in PY 4, and so my testimony addresses
9 the program in which verification activities were
10 not able to be performed.

11 Q. But there's an independent evaluator
12 who is charged with evaluating, measuring, and
13 verifying net -- achieved net savings by Ameren
14 Illinois for PY 4; correct?

15 A. Correct.

16 Q. And when referring to evaluation,
17 measurement, and verification activities, I will
18 use the abbrevia -- I may use the abbreviated
19 term EM&V. Okay?

20 A. Okay.

21 Q. Now, the independent evaluator that
22 measured the verified -- or excuse me -- measured
23 the achieved savings for Ameren Illinois for PY 4
24 was a company called Opinion Dynamics

1 Corporation; correct?

2 A. That was the lead contractor, yes.

3 Q. And for purposes of my question, I'll

4 refer to Opinion Dynamics Corp. as ODC.

5 A. Okay.

6 Q. ODC's independent evaluation reports

7 have been filed in this docket; correct?

8 A. Correct.

9 Q. And it's -- those reports will be

10 entered into evidence by agreement today. Okay?

11 A. Okay.

12 Q. But you will agree that the reports

13 that were filed in the docket are the final

14 reports issued by the independent evaluator;

15 right?

16 A. Yes. For purposes of PY 4.

17 Q. And parties, including Staff, had the

18 opportunity to review draft evaluation reports

19 before they became final; correct?

20 A. Yes.

21 Q. And parties, including Staff, had the

22 opportunity to provide comments to the draft

23 evaluation reports before they became final,

24 didn't they?

1 A. Yes.

2 Q. But Staff is not the ultimate party
3 that is responsible for drafting or issuing the
4 independent evaluation reports with respect to
5 the achieved savings for AIC for PY 4; correct?

6 A. Could you repeat the question.

7 Q. But Staff is not the party that is
8 ultimately responsible for drafting and issuing
9 the independent reports with respect to the
10 achieved net savings for AIC in PY 4; correct?

11 A. Correct.

12 Q. And the PY 4 evaluation reports were
13 not written by Staff; right?

14 A. Correct.

15 Q. And they weren't written by Ameren
16 Illinois either, were they?

17 A. Correct.

18 Q. It was ODC, as the independent
19 evaluator, that ultimately drafted and issued the
20 final PY 4 evaluation reports which represented
21 the independent evaluator's findings and
22 conclusions. True?

23 A. With substantial input from other
24 parties.

1 Q. Including Staff and Ameren Illinois;
2 correct?

3 A. Primarily Ameren, I would say.

4 Q. Including both Staff and Ameren
5 Illinois; correct?

6 A. Could you --

7 Q. That's a yes-or-no question.

8 A. What is the question again?

9 Q. I believe you had indicated there was
10 input provided to ODC.

11 That input was provided by both Staff
12 and Ameren Illinois; correct?

13 MS. TURNER: I'm just going to object
14 that she already answered the question.

15 MR. DEMONTE: It was a yes-or-no
16 question, Judge, and I feel like we got a
17 narrative instead of a "Yes" or "No."

18 JUDGE YODER: I'll overrule the
19 objection.

20 If Ms. Hinman needs to clarify, she
21 can do that on cross -- or redirect.

22 A. Staff and Ameren and other
23 stakeholders were provided the opportunity to
24 provide comment, but Staff didn't necessarily

1 provide comment on every evaluation report.

2 MR. DEMONTE: Judge, I'm going to
3 move to strike the answer.

4 The question was did both Staff and
5 Ameren Illinois provide input to the independent
6 evaluators? Did not ask about --

7 MS. TURNER: I believe Mr. DeMonte
8 had asked that she clarify her response to the
9 question that was asked, and Ms. Morris did that.
10 I think the answer should be allowed to stand.

11 MR. DEMONTE: Judge, I'm just asking
12 about input. It's a yes-or-no question: Did
13 both Staff and Ameren Illinois provide input?

14 JUDGE YODER: Well, I will grant your
15 objection at this point.

16 And just answer the question at this
17 point. You'll have the opportunity for redirect
18 with your counsel, Ms. Morris.

19 A. Are you asking specifically about
20 comments on the draft PY 4 evaluation reports or
21 the evaluation plans?

22 Q. (By Mr. DeMonte) We'll talk about
23 the evaluation plans --

24 A. Okay.

1 Q. -- shortly.

2 I'm specifically asking whether or
3 not -- well, asking you to confirm, through a
4 yes-or-no answer, that both Ameren Illinois and
5 Staff provided input with respect to the
6 evaluation reports for PY 4.

7 A. I think, yes. I can't remember how
8 much input Staff provided. I know in prior years
9 I had provided more input, but specifically for
10 PY 4, it was much more limited.

11 Q. But Staff did provide input on the PY
12 4 evaluation reports; correct?

13 A. I guess. I don't --

14 Q. That's a "Yes"?

15 A. Is there a specific one you're
16 referring to? I mean --

17 Q. I'm simply asking, Ms. Morris. I
18 think you just indicated Staff may have provided
19 some level of input for PY 4 evaluation reports.
20 True?

21 A. True.

22 Q. Now, let's talk about the evaluation
23 plan.

24 ODC conducted its evaluations of

1 AIC's PY 4 programs pursuant to an evaluation
2 plan developed at the discretion of the
3 independent evaluator with agreement by Staff,
4 didn't it?

5 A. Yes.

6 MR. DEMONTE: Your Honor, may I
7 approach the witness?

8 JUDGE YODER: Yes.

9 Q. (By Mr. DeMonte) Ms. Morris, I'm
10 going to hand you the PY 4 evaluation plan for
11 the Ameren Illinois Company electric and gas
12 residential and commercial portfolios marked
13 "Final" and dated June 2012.

14 Are you familiar with that --

15 JUDGE YODER: You're not asking this
16 be marked as a cross exhibit or anything; is that
17 correct?

18 MR. DEMONTE: Your Honor, may I
19 please mark this as Ameren Illinois Cross Exhibit
20 1.

21 JUDGE YODER: Off the record for a
22 second.

23 (Discussion off the record.)

24 JUDGE YODER: All right. Back on the

1 record.

2 Thank you.

3 MR. DEMONTE: Thank you, Judge.

4 Q. (By Mr. DeMonte) Are you finished
5 looking at the document, Ms. Morris?

6 A. Do I need to refer to it at all for
7 any of your questions?

8 Q. Yes.

9 First, though, I just want
10 confirmation: This is the final report for PY 4
11 evaluation -- I'm sorry. Let me restate the
12 question.

13 This is the final PY 4 evaluation
14 plan for Ameren Illinois Company's PY 4 program;
15 correct?

16 A. I'm not a hundred percent positive if
17 it is absolute final. Sometimes items are marked
18 "Final," and then it's realized there's an error,
19 and it's corrected. But subject to check, I'll
20 assume that it's the final true and correct copy.

21 Q. And you're familiar with the final
22 evaluation report?

23 A. I'm more familiar with the draft
24 versions --

1 Q. Okay.

2 A. -- of the evaluation report.

3 COURT REPORTER: I'm sorry?

4 A. I'm more familiar with the draft

5 versions of the evaluation plans which I had

6 reviewed and provided input on.

7 Q. (By Mr. DeMonte) And with respect to

8 the final, though, you did receive a copy of the

9 final evaluation plan for PY 4. True?

10 A. True.

11 Q. And this appears to be, subject to

12 check, a true and accurate copy of the final PY 4

13 evaluation?

14 A. Yes.

15 Q. Thank you.

16 If I could refer you to page 3, the

17 second paragraph.

18 Your Honor, before I ask that

19 question, at this time we would like to move into

20 evidence AIC Cross Exhibit 1.

21 JUDGE YODER: Any objection?

22 MS. TURNER: No, Your Honor.

23 JUDGE YODER: All right.

24 MR. DEMONTE: Thank you, Judge.

1 JUDGE YODER: Without objection, AIC
2 Cross Exhibit 1 will be admitted into evidence.

3 My understanding is it will be filed
4 on e-Docket for all the parties to review after
5 this case concludes -- I'm sorry -- after the
6 evidentiary hearing concludes.

7 Q. (By Mr. DeMonte) Ms. Morris, I'm
8 actually going to ask you to place that to the
9 side. Thank you. We may come back to it in a
10 couple questions.

11 Your Honor, at this time I would like
12 to mark AIC Cross Exhibit 2, which is a series of
13 emails.

14 May I approach the witness, Judge?

15 JUDGE YODER: Yes.

16 Q. (By Mr. DeMonte) Ms. Morris, I'm
17 going to hand you AIC Cross Exhibit 2. Take a
18 look.

19 MS. TURNER: Excuse me. Mr. DeMonte,
20 did you say what the Cross Exhibit 2 was when you
21 were away from the microphone?

22 MR. DEMONTE: My apologies, Ms.
23 Turner.

24 These are a series of emails by and

1 between individuals, including at the time
2 Ms. Hinman, now Ms. Morris, and Mary Sutter from
3 Opinion Dynamics. And the first email is dated
4 February 6, 2012. There's a second email from
5 Ms. Hinman to Ms. -- among others, Ms. Sutter,
6 and then -- dated February 7, and an email from
7 Ms. Sutter back to Ms. Morris, dated February 9.
8 And Mr. Olivero does have a copy.

9 Q. (By Mr. DeMonte) Ms. Morris, do you
10 recognize these emails?

11 A. Yes.

12 Q. And are they true and accurate copies
13 of the email exchange between you and Ms. Sutter,
14 dated February 6, February 7, and February 9?

15 A. I assume. I mean, I haven't had a
16 chance to go back to my email and double-check
17 but --

18 Q. These appear to be emails from
19 Ms. Sutter to, among others --

20 A. Correct.

21 Q. -- yourself, Jennifer Hinman. True?

22 A. Correct.

23 MR. DEMONTE: Your Honor, at this
24 time Ameren Illinois would move into evidence AIC

1 Cross Exhibit 2.

2 JUDGE YODER: Any objection?

3 MS. TURNER: No, Your Honor.

4 JUDGE YODER: Thank you.

5 A. Should I clarify that this isn't the
6 first time the intercepts were raised?

7 Q. (By Mr. DeMonte) No. There's no
8 question to clarify.

9 My only question was whether or not
10 these were true and accurate copies, Judge, and
11 she's authenticated those, and they're in
12 evidence. So there's no question pending. Thank
13 you.

14 And, Judge, I would ask, actually,
15 that the unelicited statements be stricken from
16 the record.

17 JUDGE YODER: It will be stricken,
18 and if it's an issue that needs to be raised on
19 redirect, it can be raised on redirect.

20 MR. DEMONTE: Thank you, Your Honor.

21 All right. At this time I'd like to
22 mark AIC Cross Exhibit 3.

23 I'm going to go ahead and mark AIC
24 Cross Exhibit 3 and 4, Judge.

1 May I approach the witness, Judge?

2 JUDGE YODER: Yes.

3 MR. DEMONTE: Thank you.

4 Q. (By Mr. DeMonte) I'm going to speak
5 into the microphone so Ms. Turner hear me, but I
6 will be handing you two documents: The first is
7 an email from Mary Sutter or Sutter from Opinion
8 Dynamics to, among others, Jennifer Hinman, who
9 we established is also you, Jennifer Morris. And
10 attaching a March 2, 2012, memorandum from
11 Opinion Dynamics Corporation, and that is marked
12 as AIC Cross Exhibit 4.

13 May I approach, Judge?

14 JUDGE YODER: Yes.

15 MR. DEMONTE: Your Honor, for clarity
16 of the record, I may have switched those numbers.
17 The email from Mary Sutter to, among others,
18 Ms. Hinman is AIC Cross Exhibit 3.

19 JUDGE YODER: Okay.

20 MR. DEMONTE: And the memorandum
21 itself is AIC Cross Exhibit 4. And, again, that
22 memo is dated March 2, 2012.

23 Q. (By Mr. DeMonte) Ms. Morris, do
24 these appear to be true and accurate copies of

1 the emails that were sent -- or excuse me -- the
2 email that was sent from Ms. Sutter to, among
3 others, yourself, attaching a true and accurate
4 copy of the March 2, 2012, memorandum from ODC?

5 A. Yes, they appear to be.

6 MR. DEMONTE: Your Honor, at this time
7 Ameren will move into evidence AIC Cross Exhibit
8 3 and Cross Exhibit 4.

9 JUDGE YODER: Any objection?

10 MS. TURNER: No, Your Honor.

11 JUDGE YODER: All right. Then AIC
12 Cross Exhibit 3 and 4 both will be admitted into
13 the record in this docket.

14 Q. (By Mr. DeMonte) Put those off to
15 the side, Ms. Morris. I may come back to them in
16 a bit but for now --

17 Ms. Morris, do you have a copy of
18 your testimony that's reflected in Staff Exhibit
19 1.0C?

20 A. Yes.

21 Q. Like to direct your attention to
22 footnote 7 on page 9.

23 A. Okay.

24 Q. In footnote 7 you identify three

1 dockets; correct?

2 A. Correct.

3 Q. None of those dockets that you've

4 identified deal with Plan 2 -- Ameren Illinois'

5 second three-year energy efficiency plan which is

6 otherwise known as Plan 2; correct?

7 A. Correct.

8 Q. And PY 4 is the first program year in

9 AIC's Plan 2; correct?

10 A. Correct.

11 Q. To your recollection -- I'm sorry.

12 Let me rephrase.

13 In footnote 7, you identify a

14 statement made in a different ICC order issued in

15 Docket No. 13-0498. Do you see that?

16 A. Yes.

17 Q. And you quote statements from the

18 final order in 13-0498?

19 A. Correct.

20 Q. There is no such statement contained

21 in the Plan 2 final order issued in Docket No.

22 10-0568; correct?

23 A. I assume that's correct, but I

24 believe there are references or quotes from the

1 statute, and this is referring to a statutory
2 provision that's been in place for a while.

3 Q. But there's no statement like the one
4 you've quoted here from ICC Docket 13-0498
5 contained in the final order issued with respect
6 to Ameren Illinois' Plan 2?

7 A. Correct. I don't believe it appears
8 there.

9 Q. If I could ask you to please turn to
10 page 24 of Ameren Illinois -- or excuse me --
11 Staff Exhibit 1.0C.

12 A. Okay.

13 Q. Here in your testimony you note that
14 the Public Utilities Act identifies two potential
15 ways for a utility to satisfy Section 8-104
16 savings requirements; correct?

17 A. Yes. But, as I said earlier, the
18 Staff position in Staff Exhibit 4.0 is the final
19 Staff position in this docket.

20 Q. Okay. With respect to just -- and
21 this was simply referencing the statute that you
22 had identified, not --

23 A. 8-104(c)? That quote you're talking
24 about?

1 Q. Correct.

2 A. Okay.

3 Q. Actually, subject to your answer,
4 I'll withdraw the pending question.

5 A. Okay.

6 Q. If I could draw your attention to
7 page 26 of Staff Exhibit 1.0C.

8 A. Okay.

9 Q. On lines 521 you reference -- 520 to
10 521, you reference the behavioral program only
11 has a measure -- a one-year measure life. Do you
12 see that?

13 A. Yes.

14 Q. It's possible, though, that the
15 behavioral programs consist of measures that have
16 measure lives longer than one year; correct?

17 A. Absolutely.

18 Q. In fact, those measure-year lives
19 could be as long as three years; correct?

20 A. Correct. Which is why it would be
21 inappropriate to triple count it across the three
22 years.

23 MR. DEMONTE: Your Honor, I'd ask to
24 strike everything after "Correct."

1 JUDGE YODER: Any comment from Staff?

2 MS. TURNER: No, Your Honor.

3 JUDGE YODER: That request to strike

4 is granted.

5 MR. DEMONTE: Thank you, Judge.

6 Q. (By Mr. DeMonte) Ms. Morris, do you

7 have your rebuttal testimony in front of you?

8 A. Yes.

9 Q. If I could ask you to take that out,

10 please.

11 If I could draw your attention to

12 page 4, starting on line 64.

13 A. Okay.

14 Q. Here you note that you obtained

15 through discovery all of the independent

16 evaluator's in-store intercept survey data from

17 customers who purchased program-incentivized

18 light bulbs; correct?

19 A. Correct.

20 Q. But the in-store intercept survey

21 data was not obtained in Program Year 4; correct?

22 A. Correct.

23 Q. In fact, it was obtained in later

24 years, PY 5 and PY 6, which are Program Years 5

1 and Program Years 6 of Ameren Illinois' second
2 plan.

3 A. Correct.

4 Q. In fact, there were no intercept
5 surveys conducted in PY 4; correct?

6 A. Correct. Due to program --

7 Q. And --

8 A. -- closure.

9 Q. I'm sorry.

10 A. Due to program shutdowns or
11 significant drop by Ameren.

12 MR. DEMONTE: Your Honor, I didn't
13 mean to cut off the witness, but I subsequently
14 must move to strike everything after "Correct"
15 which was not responsive to my question and more
16 of a narrative.

17 JUDGE YODER: All right. The
18 remainder of the response will be stricken. It
19 can be raised on redirect, if necessary.

20 MR. DEMONTE: Thank you, Judge.

21 Q. (By Mr. DeMonte) In fact, the
22 evaluator also -- let me rephrase.

23 In fact, ODC also did not estimate a
24 leakage rate for Ameren Illinois' PY 4 programs

1 either; correct?

2 A. Correct.

3 Q. And when you later say that you,

4 quote, "estimated a leakage rate," that means you

5 estimated a leakage rate for PY 4 using PY 5 and

6 PY 6 in-store intercept survey data; correct?

7 A. Is there a specific line that you're

8 referring to?

9 Q. Yeah. On line 67.

10 A. Per retail store location --

11 COURT REPORTER: I'm sorry?

12 A. Per retail store location leakage

13 rate, correct.

14 Q. (By Mr. DeMonte) So the answer to my

15 question was "Correct"?

16 A. That I used the PY 5 and PY 6 data,

17 yes.

18 Q. Thank you.

19 If you turn the page to page 5.

20 You state you applied your estimated

21 leakage rate to program bulb sales that occurred

22 at retail stores where the independent evaluators

23 visited and spoke with program-incentivized bulb

24 purchasers to determine whether they were Ameren

1 Illinois electric customers or not.

2 It's actually page 5 going onto page

3 6. I'm sorry.

4 A. Correct.

5 Q. But, again, the independent

6 evaluators actually visited and spoke to

7 program-incentivized light bulb purchasers not in

8 PY 4 but in PY 5 or PY 6; correct?

9 A. Correct.

10 Q. On page 13, lines 273 through 276,

11 you define the term -- let me know when you're

12 there.

13 A. I'm here.

14 Q. Thanks.

15 You define the term "best available"

16 as the information the independent evaluators

17 consider to be the best available information at

18 the time they perform the TRC analysis; correct?

19 A. Correct.

20 Q. And this is Staff's current position

21 with respect to the definition of "best

22 available." True?

23 A. Best available -- it can be -- it's

24 subjective. It can be defined -- you know, I

1 think Ameren, in the surrebuttal, commented that,
2 "Oh, this seems inconsistent with our earlier
3 definition." It doesn't seem inconsistent to me.
4 It's the same. It's just different wording.

5 Q. And it's the same in your mind
6 because the definition of "best available" is
7 subjective?

8 A. Right.

9 Q. It can change depending on who is
10 making the determination?

11 A. Correct.

12 Q. And the person making the
13 determination could be the independent evaluator?

14 A. That's the person or the entity I was
15 requesting perform it like the statute requires.

16 Q. And in terms of the definition of
17 "using the best available information," is it
18 your recommendation that the independent
19 evaluator is the final say on what is the best
20 available information?

21 A. For purposes of providing the
22 cost-effectiveness report. That's not to say
23 that someone can't disagree at a later time with
24 it, but just that the Commission should be

1 provided, you know, the best estimate so they
2 have an understanding of what the net benefits
3 are of the ratepayer-funded programs.

4 Q. And with respect to selecting the
5 inputs for the analysis, it's your recommendation
6 that the independent evaluator is the final say
7 on selecting those inputs; is that correct?

8 MS. TURNER: I would like to object
9 to the question on the grounds that it's vague as
10 to what or which analyses Mr. DeMonte is
11 referring to.

12 MR. DEMONTE: I can clarify, Judge.

13 JUDGE YODER: Okay. Please clarify

14 Q. (By Mr. DeMonte) With respect to the
15 TRC analysis that you referenced in your prior
16 question.

17 A. Could you repeat your question.

18 Q. Is it Staff's recommendation that the
19 independent evaluator be the final say with
20 respect to selecting the inputs for the TRC
21 analysis?

22 A. For its TRC analysis, yes.

23 Q. And "its TRC analysis" that you just
24 referenced in your question is, in fact, the TRC

1 analysis that Staff takes the position should be
2 calculated under the Public Utilities Act;
3 correct?

4 A. Correct.

5 Q. If I could ask you to please turn to
6 page 26, lines 548 -- and the sentence actually
7 starts on line 546 through 549.

8 A. Okay.

9 Q. Here you reference a reasonable
10 estimate of the net savings achieved through EPY
11 4. Do you see that?

12 A. Yes.

13 Q. "EPY 4," I've been calling PY 4 in
14 these questions. Okay?

15 A. Correct.

16 Q. Do you agree that --

17 Ms. Morris, do you agree that an
18 estimate that comes within a plus/minus of 5
19 percent of actual achieved savings is a
20 reasonable estimate as you use that term in your
21 testimony?

22 A. No.

23 Q. What about a plus/minus of 4 percent?

24 A. No. I mean, I would have to see the

1 specific circumstances. That's a broad statement
2 to agree with.

3 Q. Well, maybe I'll break it down this
4 way: With respect to an evaluator's final
5 estimation of net savings, would you agree that,
6 if the independent evaluator comes within 5
7 percent of the actual achieved net savings, that
8 would be a reasonable outcome as you've used that
9 term in your testimony?

10 A. I don't know.

11 Q. And is your concern with the question
12 with respect to the methodology that is unknown
13 as the premise of my question?

14 A. Just the size of the savings and what
15 type of impact it could have.

16 Q. And, again, I'm focused on the
17 outcome and not the methodology with respect to
18 my question.

19 Would you agree that an outcome with
20 a plus/minus of 3 percent, when compared to
21 actual achieved savings, would be a reasonable
22 outcome?

23 A. Again, I don't know.

24 Q. And what about 1.5 percent within

1 actual achieved savings? Would that be a
2 reasonable outcome for an independent evaluator
3 to ultimately determine when compared to actual
4 achieved savings?

5 A. Sure.

6 MS. TURNER: I'm sorry. I couldn't
7 hear the answer or the percentage that was asked
8 in the question.

9 MR. DEMONTE: The question was
10 whether or not 1.5 percent was a reasonable
11 outcome, a plus/minus of 1.5 percent.

12 Q. (By Mr. DeMonte) And the answer was
13 "Sure"; correct, Ms. Morris?

14 A. Sure. I mean, it depends but --

15 MR. DEMONTE: Your Honor, if I could
16 just have one moment.

17 JUDGE YODER: Sure.

18 MR. DEMONTE: Your Honor, at this
19 time the company has no further cross-examination
20 questions for Ms. Morris.

21 JUDGE YODER: Thank you.

22 Does Staff wish a moment to --

23 MR. OLIVER: Yes.

24 JUDGE YODER: -- discuss with the

1 witness?

2 Go off the record for five or so

3 minutes.

4 (Short recess.)

5 JUDGE YODER: All right. Back on the

6 record.

7 Is there any redirect for Ms. Morris?

8 Oh, I'm sorry, Ms. Turner. I didn't

9 see you weren't back yet.

10 Back on the record.

11 Is there any redirect?

12 MS. TURNER: Yes, Your Honor.

13 JUDGE YODER: All right. Please

14 proceed.

15 REDIRECT EXAMINATION

16 QUESTIONS BY MS. TURNER:

17 Q. Ms. Morris, do you recall a series of

18 questions that Mr. DeMonte asked you a few

19 minutes ago regarding the ability of Staff and

20 Ameren and other stakeholders to give input to

21 the evaluators on the reports and on the plan?

22 A. Yes.

23 Q. And with respect to the PY 4

24 residential lighting program, did you provide

1 input when you had the opportunity to do so?

2 A. Yes.

3 Q. And what was that input?

4 A. For -- in AIC Cross Exhibit No. 2,
5 which contains an email from February of 2012,
6 where Staff expressed an interest to having the
7 in-store intercept surveys occur in PY 4 in an
8 effort to be consistent, you know, with the ComEd
9 evaluation proven approach for both net gross
10 leakage and other market research activities.

11 Q. Okay. And --

12 A. And with -- this email is from
13 February; however, throughout the process back in
14 2011 -- the contract finalization with Ameren and
15 the evaluator -- Staff had raised the issue of
16 intercepts early -- earlier on than this February
17 date. So this was not a new idea late in the
18 program year.

19 Q. So the February series of emails
20 contained in AIC Cross Exhibit 2 is not the first
21 time that Staff raised the issue of conducting
22 in-store intercepts regarding the residential
23 rate lighting program; correct?

24 A. Correct.

1 Q. And Mr. DeMonte asked you some
2 questions regarding your rebuttal testimony and
3 your statements regarding reasonable estimates of
4 net savings achieved in PY 4. Do you recall
5 those questions?

6 A. Yes.

7 Q. And you testified that a
8 reasonable -- or I'm sorry.

9 You testified that an estimate within
10 plus or minus 5 percent, plus or minus 4 percent,
11 and plus or minus 3 percent either would not be
12 reasonable or you could not say whether or not
13 those would be reasonable; correct?

14 A. Correct.

15 Q. And why is it that you could not say
16 whether or not those would be reasonable?

17 MR. DEMONTE: Objection, Judge. Just
18 for clarification, I believe Ms. Morris'
19 testimony was that she couldn't determine whether
20 it was reasonable, not that they were either
21 unreasonable or she couldn't determine they were
22 reasonable. So I would object to that portion of
23 her premise, but the remainder of the question,
24 there's no objection to.

1 JUDGE YODER: Okay. Ms. Turner, do
2 you accept that clarification or --

3 MS. TURNER: I believe the witness
4 just confirmed what her answers were.

5 But if you agree with Mr. DeMonte's
6 characterization of your testimony, then I
7 wouldn't have a problem with that objection.

8 A. I think for the first one I said,
9 "No," and he kept asking, and I was saying, "I
10 don't know." We got to the point where it was,
11 like, 1.5 percent, and I said, "Sure. It
12 depends, though."

13 I would like to retract the "Sure"
14 part because it depends on too many circumstances
15 to provide a confirmative, you know, absolutely
16 1.5 percent, you know, is definitely reasonable.
17 I would need more specific details concerning
18 which situation is being referred to.

19 JUDGE YODER: Okay. For the record,
20 I think the witness partially agreed with Mr.
21 DeMonte and partially maybe didn't agree, but we
22 can go on from there, I think.

23 MR. DEMONTE: Thank you, Judge.

24 Q. (By Ms. Turner) So, Ms. Morris, with

1 respect to your answer regarding 1.5 percent and
2 whether or not that is reasonable, is it your
3 testimony that it depends on a variety of factors
4 and, without more information, you cannot say
5 with certainty that plus or minus 1.5 percent is
6 a reasonable estimate of net savings?

7 A. That's correct. And the specific
8 part of the testimony that Mr. DeMonte was
9 referring to related to a statement about using
10 the prospective net-to-gross ratios for DCEO's
11 program, I thought, provided a reasonable
12 estimate, and this was based on the fact that
13 DCEO's evaluator stated that any differences
14 between the PY 3 and PY 4 evaluation results are
15 not due to real changes in free ridership. It's
16 likely due to the methodology was different for
17 PY 4 than the PY 3.

18 Q. So with respect to Ameren's programs,
19 you cannot say, without more information, whether
20 or not 1.5 percent estimate -- or I'm sorry.

21 With respect to Ameren programs, you
22 cannot definitively say that being within plus or
23 minus 1.5 percent would be a reasonable estimate
24 of net savings without more information about

1 which programs are being discussed; is that
2 correct?

3 A. Correct.

4 MS. TURNER: Thank you. I have no
5 further redirect.

6 JUDGE YODER: Do you want to recross
7 on that?

8 MR. DEMONTE: Yes, Your Honor.

9 May I just have one second.

10 REXCROSS-EXAMINATION

11 QUESTIONS BY MR. DEMONTE:

12 Q. Ms. Morris, if I could direct your
13 attention to Ameren -- or excuse me -- AIC Cross
14 Exhibit 2.

15 I believe you testified on redirect
16 that this email dated February 2, 2012, was not
17 the first time you raised the idea of intercept
18 surveys; correct?

19 A. February 7?

20 Q. 2012.

21 A. Correct.

22 Q. But I direct your attention to the
23 February 9 email from Mary Sutter that is
24 directly above that email.

1 Do you see that?

2 A. Yes.

3 Q. And that's dated February 9, 2012?

4 A. Yes.

5 Q. And Ms. Sutter works for ODC;

6 correct?

7 A. Not anymore.

8 Q. At the time she wrote this email and

9 sent it to you?

10 A. Correct.

11 Q. And she was the contact with respect

12 to the PY 4 evaluations; correct?

13 A. Correct.

14 Q. And in that email to you -- the

15 February 9, 2012, email to you -- Ms. Sutter

16 says, "Hi, Jennifer," and then procedures to

17 explain -- and I will paraphrase -- that the

18 evaluation plan as of February 9, which was still

19 a draft, does not include intercept surveys;

20 correct?

21 A. Correct. But this is not really an

22 evaluation. I believe it was a PowerPoint that

23 kind of had slides for each one, but the physical

24 version that was eventually released, which I

1 provided in response to data requests, did have
2 them listed in PY 4 and also specified the
3 leakage would be evaluated in PY 4 as well.

4 Q. But my question specifically is
5 February 9, 2012. It was ODC's opinion that the
6 in-store intercepts would not be conducted for PY
7 4; correct?

8 A. It says we do not have them planned
9 each year. I don't --

10 Q. And I'll go ahead --

11 A. It doesn't specify PY 4 in that
12 email.

13 Q. I'll go ahead and direct your
14 attention to the first sentence. It says -- and
15 I'll try to read it slowly -- "In the PY 4 plan
16 that will be delivered" --

17 A. Oh, okay.

18 Q. -- "to you Thursday by COB, you will
19 see that we do not have in-store intercepts
20 planned each year."

21 A. Okay.

22 Q. So, again, I will ask --

23 A. There was a three-year plan. I
24 don't -- she might have been -- may have

1 accidentally stated that wrong because there's a
2 three-year plan and then there's an individual
3 program-year plan, and the discussion was around
4 the three-year plan before getting to the PY 4
5 plan. And this one, I think, is before -- yeah,
6 this was before they even -- they actually came
7 down to Springfield to discuss, and at that time
8 the focus was really on the three years.

9 Q. Okay. In the first sentence, it
10 says --

11 A. It does say "PY 4 plan" in the first
12 sentence.

13 Q. And so, in that email, Ms. Sutter is
14 conveying to you, "In the PY 4 plan..., you will
15 see that we do not have in-store intercepts
16 planned..."; correct?

17 A. "...each year."

18 Q. "...each year."

19 And that includes PY 4; correct?

20 A. It could be PY 4, PY 5, or PY 6.

21 Q. And so it was at Staff's suggestion
22 that the evaluators put in -- let me rephrase.

23 It was at Staff's suggestion that the
24 evaluators considered doing in-store intercept

1 surveys for Plan Year 4; correct?

2 A. Correct.

3 Q. And I think before you had testified
4 that was because of consistency statewide?

5 A. Right. The Commission's order was
6 pretty clear about statewide consistency, and
7 even in the contract --

8 COURT REPORTER: I'm sorry. "The
9 contract" what?

10 A. The contract with the evaluator
11 that's filed as a compliance filing in Docket
12 10-0568. There's language in there that
13 references the Commission's order and the
14 directives for statewide consistency. There's a
15 lot -- there was some litigation in the plan
16 docket because of some significant differences
17 between the Ameren and ComEd results for this
18 particular residential lighting program.

19 MR. DEMONTE: Your Honor, at this
20 time I would ask that the testimony after
21 "Correct" be stricken. The question was whether
22 or not the recommendation was due to consistency;
23 correct? And she answered "Correct," and then
24 proceeded to provide much more of a narrative

1 answer than was called for by the question.

2 MS. TURNER: Can the question be read

3 back, please.

4 And I'm sorry. I don't know if the

5 court reporter is near a microphone.

6 MR. DEMONTE: Ms. Turner, she's

7 looking right now.

8 MS. TURNER: Thank you.

9 (The requested portion was read

10 back by the court reporter.)

11 MS. TURNER: And I apologize. Can I

12 hear the answer again as well.

13 MR. DEMONTE: I think there was a

14 question after that.

15 JUDGE YODER: Yeah. There was

16 another one that mentioned consistency.

17 MR. DEMONTE: Yeah. Is there a

18 question that immediately followed that question

19 you just read, ma'am?

20 COURT REPORTER: You are correct.

21 (The requested portion was read

22 back by the court reporter.)

23 MS. TURNER: I think Ms. Morris'

24 answer follows the two questions that were

1 previously asked and explains her answer and her
2 position fully, and I would say that the things
3 within her answer is an explanation and should
4 not be stricken.

5 MR. DEMONTE: Your Honor, there was
6 references to litigation and Commission
7 directives and things that went far beyond the
8 scope of the question.

9 JUDGE YODER: That may be, but I
10 think her attempt was to explain why there was
11 the request for consistency; so I'll allow her
12 answer to stand.

13 MR. DEMONTE: Thank you, Judge.

14 Q. (By Mr. DeMonte) If I could draw
15 your attention to AIC Cross 4.

16 A. Is this a redirect or new cross?

17 Q. This is AIC Cross 4. This is an
18 exhibit that was put in on your direct. It's the
19 March 2, 2012, memorandum from ODC to, among
20 others, yourself.

21 A. Okay.

22 MS. TURNER: Your Honor, I just would
23 object on the fact that this is outside the scope
24 of redirect. I didn't ask Ms. Morris anything

1 regarding Cross Exhibit 4.

2 MR. DEMONTE: Your Honor, I haven't
3 even asked a question yet.

4 JUDGE YODER: Ask the question, and
5 then we'll --

6 MR. DEMONTE: Sure.

7 Q. (By Mr. DeMonte) It says, from the
8 Opinion Dynamics evaluation team -- this is the
9 third paragraph -- I'm sorry -- the first
10 paragraph. It references the in-person meetings
11 in Springfield on 2-16-12 where we covered the
12 evaluation tasks across the three program years
13 by program. You see that?

14 A. Yes.

15 Q. And that was -- those were the
16 subsequent meetings you referenced early on in
17 your testimony.

18 A. Right. With the three program years,
19 right.

20 Q. And it says "Present were the
21 evaluation team as well as Ameren and ICC Staff,"
22 and goes on further to say that ODC "received
23 comments via an email from Staff on 2-21-12 that
24 highlighted 11 points and detailed 42

1 comments/suggested changes within an attached
2 document."

3 Is that also part of the subsequent
4 conversations that you were referencing earlier
5 in your testimony?

6 A. The subsequent ones, but there were
7 conversations prior to that during contract
8 negotiations.

9 Q. Okay. And in the third paragraph it
10 says "We understand that part of the current
11 requests stem from a need for statewide
12 consistency, and as such, our team is planning to
13 add lighting intercept surveys in PY 4, PY 5, and
14 PY 6 based on ICC requests."

15 You see that?

16 A. Yes.

17 Q. And if I could draw your attention to
18 page 2, the second paragraph again talks about
19 ICC comments, and it says "Limitations of any PY
20 4 research and our rationale for conducting
21 research in the fall rather than the spring of
22 2012 are described below."

23 You see that?

24 A. Right.

1 Q. And so it was ODC that made the
2 determination to conduct research in the fall
3 rather than in the spring of 2012; correct?

4 A. The research ended up being conducted
5 the following -- at first it was going to be the
6 fall after Ameren had canceled, but then Ameren
7 had said, "Hey, we're going to have more
8 demonstrations in January." So it ended up
9 changing, and it was not conducted in the fall.

10 Q. The fall of 2012, though. We're
11 talking about the year 2012 in your answer;
12 correct?

13 A. Correct.

14 Q. Okay. But, again, it was ODC that
15 made the determination as to the timing for these
16 surveys; correct?

17 A. Right.

18 Q. And this memo outlines the rationale
19 for conducting the research in that manner;
20 correct?

21 A. Correct.

22 Q. Okay. You talked about, in your
23 redirect, the reasonable estimates, and I believe
24 you suggested you were going to try to retract

1 your 1.5 percent reasonableness answer.

2 A. Correct. It depends on very
3 specifics, and I don't feel comfortable saying
4 1.5 percent unilaterally is appropriate in all
5 circumstances.

6 Q. And I want to make sure I'm being
7 clear with my question.

8 So my question does not involve how
9 we get to the outcome. My question assumes that,
10 no matter how we get to the outcome, 1. -- within
11 plus or minus 1.5 percent is a reasonable outcome
12 for the evaluators assessing the net achieved
13 savings in a particular program year.

14 So taking away the "How we got here"
15 point, I would ask you again: As an outcome, is
16 a plus or minus 1.5 percent a reasonable outcome
17 for an independent evaluator when issuing a final
18 report with respect to actual achieved savings
19 for a given program year?

20 A. I don't know.

21 Q. And is it -- is it your testimony,
22 then, that every circumstance requires analysis
23 to determine whether or not the end result is a
24 reasonable percentage?

1 A. Can you rephrase the question,
2 please.

3 Q. Is it your testimony today that it's
4 impossible to determine what is a reasonable plus
5 or minus, effectively an error rate for the
6 evaluator, without looking at specific facts and
7 circumstances of the evaluation?

8 A. Yes.

9 Q. And so, in that scenario, you
10 wouldn't, then, conduct a cost-benefit with
11 respect to time or effort spent to verify even as
12 little as a 1 percent difference between actual
13 achieved and that which was assessed by the
14 evaluator. True?

15 A. Can you rephrase the question.

16 Q. Sure. Is it your testimony or
17 position -- is it your position that, regardless
18 of the cost, an analysis is required to ensure
19 even a 1.5 percent difference between the actual
20 achieved savings and the evaluated results should
21 be conducted?

22 MS. TURNER: Objection. She didn't
23 say anything about the cost previously. The cost
24 of the evaluation is outside of the scope of

1 redirect. The questions were specifically about
2 the reasonableness and what comes in within a
3 reasonable percentage of the savings.

4 MR. DEMONTE: Judge, in response, the
5 witness, on direct, testified that plus or minus
6 1.5 percent was probably an acceptable,
7 reasonable end outcome for the evaluators.

8 On redirect, the witness has
9 attempted to retract that statement in saying now
10 that it's impossible to determine one way or the
11 other. Maybe -- I don't believe you used the
12 word "impossible," but she could not say one way
13 or the other whether 1.5 percent was reasonable.

14 At this point I think it's fair to
15 ask the witness what percent, if any, is
16 reasonable in light of the cost that will be
17 incurred to try to determine whether or not the
18 evaluators are a plus/minus 1.5 percent.

19 MS. TURNER: Your Honor, Staff's
20 testimony was "Sure," and then her testimony was
21 "Sure. It depends" whether or not 1.5 percent is
22 reasonable. The redirect was what factors does
23 it depend on that makes it reasonable.

24 I think that Mr. DeMonte's questions

1 involving the costs of the evaluation go beyond
2 the scope of the factors that are dependent --
3 that upon which a 1.5 percent estimate would be
4 reasonable.

5 MR. DEMONTE: Judge, just to clarify.
6 If the retraction wasn't of the answer "Sure,"
7 then I have no further questions. So if we could
8 get clarification that that part of her answer
9 stood with respect to the answer and all the
10 redirect was meant to do was to provide further
11 explanation of that answer, with that
12 understanding, we can be done. So if we could --
13 that was not my understanding when I --

14 JUDGE YODER: Okay. I'll hold on the
15 ruling on the objection if -- you're asking if
16 Ms. Morris can confirm -- will you state that
17 again -- what you want.

18 MR. DEMONTE: Yeah.

19 Q. (By Mr. DeMonte) Ms. Morris -- and I
20 apologize if there's been a misunderstanding.

21 Is the answer to the question
22 "Sure" -- does that answer stand?

23 MS. TURNER: The answer to the
24 question was "Sure. It depends," and the

1 redirect was a variety of factors upon which it
2 depends, and she said that, depending upon those
3 factors, she cannot make a commitment to whether
4 or not 1.5 percent is a reasonable estimate.

5 A. Correct. I was concerned --

6 Q. (By Mr. DeMonte) But you answered
7 "Sure. It depends."

8 JUDGE YODER: Wait a minute.

9 MR. DEMONTE: I'm sorry.

10 All I want to make sure is that part
11 of the answer wasn't retracted. I understand it
12 was subject to explanation.

13 JUDGE YODER: That "Sure" was not
14 retracted?

15 MR. DEMONTE: Yes, Your Honor.

16 JUDGE YODER: Okay. I think she
17 clarified it, but at this point I will uphold the
18 objection or affirm the objection.

19 Q. (By Mr. DeMonte) Just for clarity of
20 the record, we've confirmed, though, that the
21 "Sure" stands; correct?

22 A. No. It depends. I'm not -- I'm not
23 comfortable saying, "Yes," or, "Sure, you know,
24 1.5 percent in all circumstances will be

1 appropriate," and I'm just concerned it may get
2 taken out of context, and so I would like to
3 avoid that.

4 So the answer is "No. Without
5 further details, cannot commit to that."

6 Q. Okay. So we're back to where I
7 originally thought we were, but I understand the
8 objection's been sustained.

9 Ms. Morris, is it possible that 1.5
10 percent -- a plus or minus of 1.5 percent is a
11 reasonable outcome with respect to the evaluation
12 reports?

13 A. I don't know.

14 Q. You don't know if it's possible?

15 A. I mean, under certain circumstances,
16 it potentially could be but --

17 Q. And those circumstances would involve
18 the evaluators making determinations with respect
19 to the program savings. Is that true?

20 A. I don't know.

21 Q. So you don't know what percent
22 difference is reasonable with respect to whether
23 or not an evaluator comes in at plus or minus 1.5
24 percent of the actual achieved net savings. Is

1 that true?

2 A. When you keep -- you keep referencing
3 "actual achieved." The vast majority of the
4 savings that are being counted are based on
5 deemed values. We have evaluated values which
6 are way lower than the deemed value.

7 So, when you say 1.5 percent, it's
8 not, you know, of actual -- you know, it's really
9 way lower, and so the only adjustment that I had
10 proposed for Ameren for the leakage related to
11 verified savings which was a retroactive item
12 that the Commission approved in the plan order at
13 Ameren's request. It wasn't adjusting any of the
14 high deemed values. So I don't know. Your
15 question's too broad.

16 Q. So you don't know -- you have no
17 position as to whether or not an evaluator can
18 come in within 1.5 percent plus or minus of the
19 verified savings?

20 A. They do provide, in some cases,
21 confidence intervals and stuff for some of the
22 estimates, like, for the custom program. It's
23 generally not 1.5 percent. It's larger.

24 Q. What percent is that?

1 A. I think they shoot for 90/10, but
2 sometimes it's -- comes in at the 20 percent. I
3 don't know. It just varies across the various
4 reports.

5 Q. So for certain programs it's okay to
6 come in with a 90 percent confidence interval; is
7 that right?

8 A. I don't know. I mean, has it been
9 accepted in some cases? I'm sure it has.

10 Q. So in some cases it's acceptable is
11 what you're saying.

12 A. Under certain -- yeah, it has been.

13 MR. DEMONTE: Your Honor, if I could
14 have one minute.

15 JUDGE YODER: All right.

16 MR. DEMONTE: Less than one minute.

17 JUDGE YODER: All right.

18 MR. DEMONTE: Your Honor, no further
19 questions.

20 JUDGE YODER: All right. Thank you.

21 MR. DEMONTE: Thank you, Ms. Morris,
22 for your time today.

23 JUDGE YODER: Any objection to the
24 admission of Ms. Morris' corrected direct

1 testimony with the corrected exhibit, the
2 previously filed Exhibits 1.2 through 1.4, and
3 her rebuttal testimony with the accompanying
4 exhibits?

5 (No response.)

6 JUDGE YODER: All right. Without
7 objection, then, those will be admitted into
8 evidence in this docket.

9 Thank you, Ms. Morris.

10 All right. Mr. -- does anyone want
11 to do their other witnesses now? Mr. DeMonte?
12 Mr. Olivero?

13 MR. OLIVERO: I mean, I can go ahead
14 and finish Staff.

15 MR. DEMONTE: Yeah. Sure.

16 MR. OLIVERO: Your Honor, Staff would
17 move for admission into the record ICC Staff
18 Exhibit 2.0, which is the direct testimony of
19 Richard J. Zuraski, which consists of a cover
20 page and five pages of questions and answers.
21 This document was filed on the Commission's
22 e-Docket --

23 MS. TURNER: Mr. Olivero, is your
24 microphone turned on?

1 MR. OLIVERO: Nope.

2 And so this document was filed on the
3 Commission's e-Docket system May 14, 2015.

4 Staff also moves for admission into
5 the record of ICC Staff Exhibit 2.01, which is
6 the affidavit of Richard J. Zuraski. This
7 document was filed on the Commission's e-Docket
8 system on February 16, 2016.

9 Staff would also move for admission
10 into the record of ICC Staff Exhibit 4.0, which
11 is the direct test -- or I'm sorry -- the
12 rebuttal testimony of Dr. James Zolnierrek --
13 that's Z-o-l-n-i-e-r-e-k -- which consists of a
14 cover page, table of contents, and eight pages of
15 questions and answers. This document was filed
16 on the Commission's e-Docket system November 30,
17 2015.

18 Staff would also ask leave to file
19 probably later today the affidavit of Mr.
20 Zolnierrek, which we will identify as ICC Staff
21 Exhibit 4.01; and, as I indicated, we should be
22 able to get that filed yet today.

23 Those would be the testimony exhibits
24 that we would move to have entered, and then in

1 lieu of --

2 JUDGE YODER: Let me do these first.

3 MR. OLIVERO: Okay.

4 JUDGE YODER: I'm sorry.

5 Is there any objection to the

6 admission of the direct testimony of Mr. Zuraski

7 as supported by his previously filed affidavit or

8 the direct testimony of Dr. Zolnierrek -- I think

9 Zuraski is probably a doctor too. I should have

10 said that -- Zolnierrek as supported by his

11 affidavit which is to be filed?

12 MR. DEMONTE: No objection, Judge.

13 JUDGE YODER: All right, then.

14 Without any objection, those will be admitted.

15 Mr. Zur -- or Dr. Zuraski's --

16 Mr. Zuraski's is admitted as supported by his

17 affidavit, and Dr. Zolnierrek's will be filed --

18 admitted when his affidavit has been filed.

19 Do you have some cross exhibits, you

20 said, Mr. Olivero?

21 MR. OLIVERO: Yeah. Your Honor, in

22 lieu of cross-examining one of the Ameren

23 witnesses, the Staff would ask that Staff Cross

24 Exhibit 1 be admitted into evidence, which is a

1 two-page memorandum from Opinion Dynamics, dated
2 October 17, 2012. It was part of a larger data
3 request response.

4 MR. DEMONTE: Thank you, sir.

5 JUDGE YODER: You want to file it
6 this way, or are you going to file it on
7 e-Docket?

8 MR. OLIVER: Would you be able to
9 file it?

10 COURT REPORTER: Sure.

11 JUDGE YODER: Okay. All right.

12 MR. OLIVERO: And other than that
13 cross exhibit, Staff would have no other exhibits
14 to offer.

15 JUDGE YODER: All right. Any
16 objection to the admission of Staff Cross Exhibit
17 1?

18 MR. DEMONTE: No objection, Your
19 Honor.

20 JUDGE YODER: All right, then.
21 Without objection, it will be admitted into
22 evidence in this docket.

23 Mr. DeMonte or Ms. Hufnagel, do you
24 want to do your witnesses?

1 MS. HUFNAGEL: Your Honor, I would
2 like to move for admission into evidence DCEO
3 exhibits as well as the independent evaluator
4 reports -- DCEO independent evaluator reports.

5 JUDGE YODER: All right.

6 MS. HUFNAGEL: First, DCEO Exhibit
7 1.0 is the direct testimony of Marion Lunn. It
8 was filed on e-Docket on February 11, 2015. In
9 support of this testimony, the affidavit of
10 Marion Lunn was also filed on February 11, 2015.

11 Second, DCEO Exhibit 2.0, which is
12 the rebuttal testimony of Deidre Coughlin, which
13 was filed on e-Docket July 21, 2015. In support
14 of this testimony, the affidavit of Ms. Coughlin
15 was also filed on July 21, 2015.

16 DCEO Exhibit 3.0 is the surrebuttal
17 testimony of Marion Lunn which was filed on
18 e-Docket January 15, 2016, and in support of this
19 testimony, the affidavit of Marion Lunn was also
20 filed January 15, 2016.

21 My final exhibit I would like to
22 entitle DCEO Group Exhibit 4.0. It consists of
23 the independent evaluator reports, Parts 1
24 through 5, and includes the affidavit of David

1 Diebel. All were filed on February 10, 2015, in
2 e-Docket.

3 JUDGE YODER: And you said that was
4 titled -- or Exhibit 4.0?

5 MS. HUFNAGEL: A group exhibit, if we
6 could do that.

7 JUDGE YODER: Okay.

8 Any objection to the admission of
9 that identified testimony?

10 MR. DEMONTE: None, Your Honor.

11 JUDGE YODER: All right, then.

12 Without objection, the direct of Marion Lunn,
13 supported by the previously filed affidavit; the
14 rebuttal testimony of Deidre Coughlin, supported
15 by the previously filed affidavit; and the
16 surrebuttal testimony of Marion Lunn, supported
17 by the previously filed affidavit; as well as the
18 independent evaluator's report will be admitted
19 into evidence -- for DCEO will be admitted into
20 evidence in this docket.

21 Anything further from DCEO?

22 MS. HUFNAGEL: No.

23 JUDGE YODER: Okay. From Ameren.

24 MR. DEMONTE: Yes, Your Honor.

1 At this time the company would seek
2 admission into evidence Ameren Exhibit 1.0, which
3 is the direct testimony of Keith E. Goerss. It
4 consists of a cover page and 16 pages of
5 testimony with an appendix.

6 I would also seek admission into the
7 record of Ameren Exhibit 1.1. Both Ameren
8 Exhibit 1.0 and 1.1 were filed on e-Docket
9 February 11, 2015.

10 Seek the admission of Ameren Exhibit
11 2.0 and 2.1, which is the rebuttal testimony of
12 Keith E. Goerss and accompanying exhibit, that
13 was filed on e-Docket July 21, 2015.

14 Would also seek admission of Ameren
15 Exhibit 4.0 and 4.1, which is the surrebuttal
16 testimony of Keith E. Goerss and accompanying
17 exhibit, that was filed on e-Docket on January
18 16, 2016.

19 Company would ask leave to file the
20 affidavit of Mr. Goerss, which will be marked as
21 Ameren Exhibit 4.2, and we would ask until the
22 end of the week to get that filed on e-Docket,
23 Your Honor.

24 We would also move into admission --

1 into evidence Ameren Exhibit 3.0 and 3.1, which
2 is the rebuttal testimony of Rodney L. Hilburn
3 that was filed on e-Docket July 21, 2015.

4 And we would ask for the admission
5 of -- or leave to file Mr. Hilburn's affidavit,
6 which will be marked Ameren Exhibit 3.2; and,
7 again, would ask until the end of the week to
8 file that.

9 JUDGE YODER: All right. I'm sorry.

10 MR. DEMONTE: The company would
11 also -- and this is the company voicing the -- a
12 discussion with both Staff and the company.

13 We would jointly seek admission of
14 the independent evaluation reports for Ameren
15 Illinois which were filed on e-Docket January 6,
16 2015.

17 And, Judge, we would ask that the
18 documents be entered into evidence as filed and
19 that we don't have to refile those because
20 they're rather lengthy, and we didn't want to
21 clutter up the docket, if that's okay with
22 everyone.

23 JUDGE YODER: All right. If there's
24 no objection, then, we'll just admit the document

1 as filed on e-Docket.

2 MR. DEMONTE: There are multiple
3 documents.

4 JUDGE YODER: Right.

5 MR. DEMONTE: A lot of reports.

6 And, Judge, just for clarification,
7 the verified petition is obviously in the record.
8 There was a summary report that was attached to
9 the verified petition as well, and we just wanted
10 to confirm that that report as well is in
11 evidence. It's attached to the petition; so it's
12 in the record, but we would also ask for the
13 group -- the summary report be included as the
14 independent evaluator reports as well.

15 JUDGE YODER: Okay. All right. Let
16 me go through those.

17 Any objection to the admission of
18 Ameren Exhibit 1.0 with accompanying, Exhibit 2.0
19 with accompanying exhibit, or 4.0 with
20 accompanying Exhibit 4.1 -- all the testimony of
21 Mr. -- Goerss, I think you pronounced it?

22 MR. DEMONTE: Yes, Your Honor.

23 JUDGE YODER: -- as supported by his
24 affidavit will be filed?

1 (No response.)

2 JUDGE YODER: Hearing no objection,
3 those will be admitted upon the filing of the
4 affidavit.

5 Any objection to the admission of
6 Ameren Exhibit 3.0, the rebuttal testimony of Mr.
7 Hilburn, with accompanying exhibit to be admitted
8 upon the filing of his affidavit?

9 (No response.)

10 JUDGE YODER: All right. Hearing no
11 objection, those will be admitted upon filing of
12 the affidavit.

13 Any objection to the admission of the
14 independent evaluation report for Ameren Illinois
15 Company which was filed January 6, 2015?

16 MR. DEMONTE: All the reports that
17 were filed that day.

18 JUDGE YODER: Oh, all the -- is it
19 all -- off the record.

20 (Discussion off the record.)

21 JUDGE YODER: Back on the record.

22 The independent evaluation reports
23 for Ameren that were filed on January 6, 2015?

24 (No response.)

1 JUDGE YODER: Hearing no objection,
2 those will be admitted into evidence in the
3 docket.

4 And Ameren's also moving the summary
5 report which was filed with the petition on --

6 MR. DEMONTE: September 30, 2014.

7 JUDGE YODER: -- September 30, 2014.
8 Any objection to the admission of that identified
9 document?

10 (No response.)

11 JUDGE YODER: Hearing no objection,
12 that will be admitted into evidence in this
13 docket also.

14 MR. DEMONTE: Your Honor, if it would
15 be okay, we would like to file our cross exhibits
16 on e-Docket as well, and we would do that at the
17 same time that we file the affidavits.

18 JUDGE YODER: All right. That will
19 be fine, and that way everyone will be able to
20 view them. I had that in my note to make sure
21 you were going to do that.

22 Off the record for a second.

23 (Discussion off the record.)

24 JUDGE YODER: Back on the record.

1 Staff had suggested filing initial
2 briefs on April 14, 2016, with reply briefs of
3 May 5, 2016. As I understand, those dates work
4 for DCEO, Ms. Hufnagel --

5 MS. HUFNAGEL: That is correct.

6 JUDGE YODER: -- and for the AG.

7 Ameren indicated off the record
8 concern with the length of time between now and
9 then and the timing of other program years that
10 are starting; is that correct, Mr. DeMonte?

11 MR. DEMONTE: Yes, Your Honor. And
12 specifically we are concluding Program Year 8 in
13 June and the filing of our fourth three-year plan
14 later this year, and given that this docket
15 involves the Program Year 4 savings, which is the
16 first year of the second plan year, the company
17 would ask for a more expedited schedule,
18 recognizing that the dates that were proposed
19 work for both the other parties.

20 JUDGE YODER: Okay. Well,
21 understanding Ameren's concern, due to the volume
22 of information in this case, I think those dates
23 are appropriate; so we'll adopt those dates, and
24 I will -- not knowing how extensive those briefs

1 will be, I don't know when I will get the
2 proposed order out, but I will do that as
3 expeditiously as possible after the filings.

4 So indicate that initial briefs will
5 be filed April 14, 2016, reply briefs May 5,
6 2016.

7 Due to the documents still to be
8 filed, I will leave the record open at this point
9 and continue this matter generally.

10 Is there anything anyone else needs
11 to address in Docket 14-0594?

12 MR. DEMONTE: Nothing from the
13 company, Your Honor. Thank you.

14 MS. HUFNAGEL: Nothing.

15 JUDGE YODER: All right.

16 Now, in Docket 14-0595, which has
17 only been continued along with these, we can
18 address that at this point.

19 I believe the parties were
20 discussing -- or had previously discussed a
21 status hearing May 24; is that correct?

22 MS. TURNER: Yes, Your Honor.

23 Given the schedule for the briefs and
24 also we've continued the status for the PY 6

1 docket to May 24; so just in the interest of
2 moving things in future years along together,
3 Staff proposed moving the PY 5 status -- or I'm
4 sorry -- continuing the PY 5 status to May 24 as
5 well.

6 JUDGE YODER: Okay. Is there any
7 particular time that -- you said the other one, I
8 think, was at 9:30?

9 MS. TURNER: Yes. That's correct,
10 Your Honor. We can do this one at 9:00, or we
11 can do this one after 9:30.

12 JUDGE YODER: 9:00 works for me, if
13 it works for everyone else.

14 MS. WHATLEY: Your Honor, in light of
15 the other rulings, the date and time would work
16 for the company.

17 JUDGE YODER: Okay. Will the company
18 be wishing to appear at that hearing
19 telephonically.

20 MS. WHATLEY: Yes.

21 JUDGE YODER: Okay. That's fine.

22 If the company would be able to
23 arrange a call-in number as they did -- have done
24 in previous hearings, that would be great.

1 MS. WHATLEY: Thank you, Your Honor.

2 JUDGE YODER: So we will continue

3 Docket 14-0595 to May 24, 2016, at 9:00 A.M.

4 Would just indicate -- ask all the
5 parties to provide me a Word copy of their
6 initial and reply briefs.

7 And with that, is there anything from
8 anyone else today?

9 (No response.)

10 JUDGE YODER: Hearing nothing, then,
11 I will continue this matter generally.

12 Thank you.

13 MR. DEMONTE: Thank you, Your Honor.

14 Thank you, everyone.

15 (Docket 14-0594 continued generally
16 and Docket 14-0595 continued to May,
17 24, 2016, at 9:00 A.M.)

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CERTIFICATE OF REPORTER

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

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